

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
METROPOLITAN TRANSPORTATION :
AUTHORITY and TRIBOROUGH BRIDGE AND :
TUNNEL AUTHORITY, :
:

Plaintiffs, :

and :

NEW YORK STATE DEPARTMENT OF :
TRANSPORTATION, RIDERS ALLIANCE, SIERRA :
CLUB, and NEW YORK CITY DEPARTMENT OF :
TRANSPORTATION, :
:

Intervenor-Plaintiffs, :

v. :

SEAN DUFFY, in his official capacity as Secretary :
of the United States Department of Transportation, :
GLORIA M. SHEPHERD, in her official capacity as :
Executive Director of the Federal Highway :
Administration, UNITED STATES DEPARTMENT :
OF TRANSPORTATION, and FEDERAL :
HIGHWAY ADMINISTRATION, :
:

Defendants. :
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No. 25-cv-1413-LJL

**STATE DOT'S MEMORANDUM OF LAW
IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT AND IN FURTHER SUPPORT OF MOTION
FOR PARTIAL SUMMARY JUDGMENT**

As explained in the opening brief of Intervenor-Plaintiff the New York State Department of Transportation (“State DOT”) [ECF No. 155], which incorporated by reference the brief of Plaintiffs the Metropolitan Transportation Authority and the Triborough Bridge and Tunnel Authority and Intervenor-Plaintiff the New York City Department of Transportation [ECF No. 152], the Court should grant State DOT’s motion. Secretary Duffy’s action purporting to terminate the November 21, 2024, VPPP Agreement and rescind federal approval for the Central Business District Tolling Program, and any other action by Defendants taken on the basis thereof, should be vacated as in violation of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.* and as *ultra vires*. The Court should also issue permanent injunctive relief and/or a declaratory judgment holding unlawful the VPPP Agreement termination and prohibiting any future termination other than in the event of a breach by the Project Sponsors.

In opposition to the Defendants’ motion for summary judgment and in further support of State DOT’s motion for summary judgment, State DOT incorporates by reference the Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment and in Further Support of Plaintiffs the MTA and TBTA and Intervenor-Plaintiff NYCDOT’s Motion for Partial Summary Judgment [ECF No. 168], and any and all documents annexed thereto.

Dated: New York, New York
July 18, 2025

Respectfully submitted,

LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK

By: /s/ Mihir A. Desai
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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the length requirements of Loc. Civ. R. 7.1(c) because this brief, together with the briefs of Plaintiffs and Intervenor-Plaintiffs, does not exceed a total combined length of 56 pages, excluding nonsubstantive pages, as required by the Order of this Court of July 16, 2025 [ECF No. 165].

I further certify that the text in this brief is double-spaced using 12-point type and that the brief is formatted using 1-inch margins on all sides, and thereby complies with formatting requirements of Local Rule 7.1(b).

Dated: July 18, 2025

/s/ Mihir A. Desai

Mihir A. Desai

CERTIFICATE OF SERVICE

I, Mihir A. Desai, counsel for Intervenor-Plaintiff the New York State Department of Transportation and a member of the Bar of this Court, certify that on July 18, 2025, copies of the foregoing brief were filed with the Clerk through the Court's electronic filing system, which will send notice of such filing to all counsel of record.

Dated: July 18, 2025

/s/ Mihir A. Desai

Mihir A. Desai